

I certify that the attached is a true and
correct copy of HJR 101, which
was filed of record on MAR 10 1989
and referred to the committee on:

Corrections

Betty Murray
Chief Clerk of the House

1989 MAR 21 PM 2:47

HOUSE OF REPRESENTATIVES

FILED MAR 10 1989

By

Hightower

HJ.R. No 101

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the legislature to
2 organize and combine various state agencies that perform criminal
3 justice functions.

4 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Article IV of the Texas Constitution is amended
6 by adding Section 11B to read as follows:

7 Sec. 11B. (a) The legislature by law may organize and
8 combine into one or more agencies all agencies of the state that:

9 (1) have authority over the confinement or supervision
10 of persons convicted of criminal offenses;

11 (2) set standards or distribute state funds to
12 political subdivisions that have authority over the confinement or
13 supervision of persons convicted of criminal offenses; or

14 (3) gather information about the administration of
15 criminal justice.

16 (b) The legislature by law may designate appointing
17 authorities from any department of government to appoint the
18 governing body of any agency organized under this section.

19 SECTION 2. This proposed constitutional amendment shall be
20 submitted to the voters at an election to be held November 7, 1989.
21 The ballot shall be printed to provide for voting for or against
22 the proposition: "The constitutional amendment authorizing the
23 legislature to organize and combine various state agencies that
24 perform criminal justice functions."

HOUSE COMMITTEE REPORT

1st Printing

By Hightower

H.J.R. No. 101

Substitute the following for H.J.R. No. 101:

By Telford

C.S.H.J.R. No. 101

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(3) gather information about the administration of criminal justice.

(b) The legislature by law may:

(1) designate appointing authorities from any department of government to appoint the governing body of any agency organized under this section; and

(2) authorize the appointment of members of more than one department of government to serve on the governing body.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1989. The ballot shall be printed to provide for voting for or against

C.S.H.J.R. No. 101

1 the proposition: "The constitutional amendment authorizing the
2 legislature to organize and combine various state agencies that
3 perform criminal justice functions."

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

5-10-89
(date)

Sir:

We, your COMMITTEE ON CORRECTIONS,

to whom was referred HSR 101 have had the same under consideration and beg to report
(measure)

back with the recommendation that it

- () do pass, without amendment.
() do pass, with amendment(s).
☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ☒ yes () no An actuarial analysis was requested. () yes ☒ no

An author's fiscal statement was requested. () yes ☒ no

A criminal justice policy impact statement was prepared. () yes ☒ no

A water development policy impact statement was requested. () yes ☒ no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure () proposes new law. ☒ amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Hightower, Ch.	X			
Telford, V.C.	X			
Garcia, C.B.O.				X
Chisum	X			
Grusendorf	X			
Johnson, S.	X			
Repp	X			
Shine				X
Valigura	X			

Total
7 aye
0 nay
0 present, not voting
2 absent

Bam J. Deelford
CHAIRMAN
Deborah K. Wall
COMMITTEE COORDINATOR

BILL ANALYSIS

By: HIGHTOWER
By: TELFORD

HJR101
CSHJR101

BACKGROUND

The Texas Constitution contains two specific provisions dealing with the "clemency power," which, in its broadest meaning, encompasses any actions that absolve guilt, mitigate punishment, or prevent prosecution for offenses committed against the state. Article IV, Section 11, requires the establishment of a Board of Pardons and Paroles, and gives to the governor the power to grant reprieves, commutations, pardons, and remittitur of fines and forfeitures, on the recommendation of the Board. The Court of Criminal Appeals has recently held that this section unequivocally places the parole function in the executive branch of government under the separation of powers clause, Article II, Section 1, Texas Constitution. Rose vs. State, 752 S.W.2d 529 (1987).

Article IV, Section 11A grants to courts the clemency power, "after conviction, to place the defendant upon probation and to reimpose such sentence, under such conditions as the Legislature may prescribe." This provision grew out of a 1912 case that found that a "suspension of sentence" statute was unconstitutional as an infringement upon the executive's clemency power. Snodgrass vs. State 67 Tex. Crim. 615, 150 S.W. 162 (1912). The fundamental judicial character of the current probation system has grown out of this provision, so that local departments are run by district judges, and the state Adult Probation Commission is governed primarily by district judges who are appointed by the presiding judges of the Supreme Court and the Court of Criminal Appeals.

PURPOSE

HJR 101 would clarify and ensure the legislature's authority to reorganize or combine adult criminal justice agencies.

RULEMAKING AUTHORITY

It is the committee's opinion that this resolution does not grant any rulemaking authority to a state officer, institution, or agency.

SECTION-BY-SECTION ANALYSIS

SECTION 1: Amends Article IV, Texas Constitution, by adding Section 11B as follows:

- (a) authorizes the legislature to organize and combine criminal justice agencies;

(b) authorizes the legislature to designate appointing authorities from any department of government to appoint the governing body of an agency organized under this section. Authorizes the appointment of members from more than one department of government.

SECTION 2: Places the proposed constitutional amendment on the November 7, 1989, ballot.

SUMMARY OF COMMITTEE ACTION

Public notice was posted in accordance to the rules and a public hearing was held on May 10, 1989. Representative Hightower testified on the bill.

A committee substitute was offered and adopted by the full committee. The full committee voted to report HJR101 as substituted to the full House with the recommendation that it do pass by a record vote of 7 ayes, 0 nays, 0 pnv, 2 absent.

COMPARISON OF ORIGINAL BILL TO SUBSTITUTE

The original bill and substitute are the same except for under SECTION 1, Sec. 11B(b). Language is added to designate appointing authorities from any department of government to appoint the governing body of any agency organized under this section, and it authorizes the appointment of members from more than one department of government to serve.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 11, 1989

TO: Honorable Allen R. Hightower, Chair
Committee on Corrections
House of Representatives
Austin, Texas

In Re: Committee Substitute
for House Joint
Resolution No. 101

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Joint Resolution No. 101 (proposing a constitutional amendment authorizing the legislature to organize and combine various state agencies that perform criminal justice functions) this office has determined the following:

The resolution proposes a constitutional amendment which, if adopted, would authorize the Legislature to organize and combine various state agencies that perform criminal justice functions. The proposed amendment would be submitted to the voters on November 7, 1989.

The cost of publication of the resolution to the State is estimated to be \$60,000.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Commission on Jail Standards; Secretary of State;
LBB Staff: JO, JWH, AL, BP, PA

4

LEGISLATIVE BUDGET BOARD

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By: Hightower

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LBB Staff: JO, JWH, AL, BP, CKM

INSTIT
ADOPTED

as amended

MAY 19 1989

Betty Murray
Chief Clerk
House of Representatives

By Hightower

H.J.R. No. 101

Substitute the following for H.J.R. No. 101:

By Telford

C.S.H.J.R. No. 101

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10 of persons convicted of criminal offenses;

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12 political subdivisions that have authority over the confinement or
13 supervision of persons convicted of criminal offenses; or

14 (3) gather information about the administration of
15 criminal justice. ((INSERT 2))

16 (b) The legislature by law may:

17 (1) designate appointing authorities from any
18 department of government to appoint the governing body of any
19 agency organized under this section; and

20 (2) authorize the appointment of members of more than
21 one department of government to serve on the governing body.

22 SECTION 2. This proposed constitutional amendment shall be
23 submitted to the voters at an election to be held November 7, 1989.
24 The ballot shall be printed to provide for voting for or against

C.S.H.J.R. No. 101

1 the proposition: "The constitutional amendment authorizing the
2 legislature to organize and combine various state agencies that
3 perform criminal justice functions."

ADOPTED

MAY 19 1989

Betty Mussey
Chief Clerk
House of Representatives

AMENDMENT NO. ①

BY *Jay Iron*

1 Amend C.S.H.J.R. No. 101 on page 1 by striking lines 16-21
2 and substituting the following:

3 (b) The legislature by law may authorize the appointment of
4 members of more than one department of government to serve on the
5 governing body.

HOUSE ENGROSSMENT

89 MAY 20 AM 1:36
HOUSE OF REPRESENTATIVES

By Hightower

H.J.R. No. 101

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 11, 1989

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Committee on Corrections
House of Representatives
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Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Commission on Jail Standards; Secretary of State;
LBB Staff: JO, JWH, AL, BP, PA

LEGISLATIVE BUDGET BOARD

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By: Hightower

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Source: Commission on Jail Standards; Secretary of State;
LBB Staff: JO, JWH, AL, BP, CKM

1 By: Hightower (Senate Sponsor - McFarland) H.J.R. No. 101
2 (In the Senate - Received from the House May 20, 1989;
3 May 22, 1989, read first time and referred to Committee on Criminal
4 Justice; May 26, 1989, reported favorably by the following vote:
5 Yeas 5, Nays 0; May 26, 1989, sent to printer.)

6 COMMITTEE VOTE

	Yea	Nay	PNV	Absent
7 McFarland	x			
8 Brown	x			
9 Dickson	x			
10 Lyon				x
11 Santiesteban				x
12 Tejada	x			
13 Washington	x			

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36 The ballot shall be printed to provide for voting for or against
37 the proposition: "The constitutional amendment authorizing the
38 legislature to organize and combine various state agencies that
39 perform criminal justice functions."

40 * * * * *

41 Austin, Texas
42 May 26, 1989

43 Hon. William P. Hobby
44 President of the Senate

45 Sir:

46 We, your Committee on Criminal Justice to which was referred H.J.R.
47 No. 101, have had the same under consideration, and I am instructed
48 to report it back to the Senate with the recommendation that it do
49 pass and be printed.

50 McFarland, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 23, 1989

TO: Honorable Bob McFarland, Chair
Committee on Criminal Justice
Senate Chamber
Austin, Texas

In Re: House Joint Resolution
No. 101, as engrossed
By: Hightower

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Joint Resolution No. 101, as engrossed (proposing a constitutional amendment authorizing the legislature to organize and combine various state agencies that perform criminal justice functions) this office has determined the following:

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The cost of publication of the resolution to the State is estimated to be \$60,000.

No fiscal implication to the State or units of local government is anticipated.

Source: Commission on Jail Standards; Secretary of State;
LBB Staff: JO, JWH, AL, BP, NH

LEGISLATIVE BUDGET BOARD

Austin, Texas

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House of Representatives
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LBB Staff: JO, JWH, AL, BP, PA

LEGISLATIVE BUDGET BOARD

Austin, Texas

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LBB Staff: JO, JWH, AL, BP, CKM

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

6
May 28, 1989
(date)/(time)

Sir:

We, your Committee on CRIMINAL JUSTICE to which was referred
HR 101 by Hightower have on 5/25, 1989, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

☒ do pass and be printed

☐ do pass and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

Senate Sponsor of House Measure McFarland

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
McFarland, Chairman	<input checked="" type="checkbox"/>			
Brown, Vice Chairman	<input checked="" type="checkbox"/>			
Dickson	<input checked="" type="checkbox"/>			
Lyon				<input checked="" type="checkbox"/>
Santiesteban				<input checked="" type="checkbox"/>
Tejeda	<input checked="" type="checkbox"/>			
Washington	<input checked="" type="checkbox"/>			
TOTAL VOTES	5			2

[Signature]
COMMITTEE CLERK

[Signature]
CHAIRMAN

F
ENROLLED

H.J.R. No. 101

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24 perform criminal justice functions."

H.J.R. No. 101

President of the Senate

Speaker of the House

I certify that H.J.R. No. 101 was passed by the House on May 19, 1989, by the following vote: Yeas 139, Nays 0.

Chief Clerk of the House

I certify that H.J.R. No. 101 was passed by the Senate on May 27, 1989, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

RECEIVED: _____

Date

Secretary of State

President of the Senate

Speaker of the House

I certify that H.J.R. No. 101[✓] was passed by the House on
(1)

May 19[✓], 1989, by the following vote:
(2)

Yeas 139[✓], Nays 0[✓]
(3) (4)

Chief Clerk of the House

I certify that H.J.R. No. 101[✓] was passed by the Senate on

May 27[✓], 1989, by the following vote:
(5)

Yeas 29[✓], Nays 1[✓]
(6) (7)

Secretary of the Senate

RECEIVED:

Date

Secretary of State

**** Preparation: 'A;CT47;

101Hightower

HOUSE JOINT RESOLUTION

proposing a constitutional amendment authorizing the legislature to
organize and combine various state agencies that perform criminal
justice functions.

MAR 10 1989

1. Filed with the Chief Clerk.

MAY 18 1989

Motion to postpone further consideration
of HJR 101 until Fri.
May 19 at 9 AM
prevailed by a non-record vote.

MAR 20 1989

2. Read first time and referred to Committee on

CorrectionMAY 10 19893. Reported favorably (~~amended~~) and sent to Printer at(as substituted)10:55 amMAY 12 1989MAY 13 1989

4. Printed and distributed at

3:48 pmMAY 15 1989

5. Sent to Committee on Calendars at

8:06 amMAY 19 1989

6. Read second time (~~amended~~) and (finally) passed to ~~Third Reading~~ by a Record Vote
of 139 yeas, 0 nays, 0 present, not voting.

as subs.

7. Motion to reconsider and table the vote by which H.J.R. _____ was ordered
engrossed prevailed (failed) by (Non-Record Vote) (Record Vote of _____
yeas, _____ nays, _____ present, not voting).

8. Read third time (amended) and finally adopted (failed of adoption) by a Record Vote
of _____ yeas, _____ nays, _____ present, not voting.

9. Caption ordered amended to conform to body of resolution.

10. Motion to reconsider and table the vote by which H.J.R. _____ was finally
adopted prevailed (failed) by a (Non-Record Vote) Record Vote of _____
yeas, _____ nays, and _____ present, not voting).

MAY 19 1989

11. Ordered Engrossed at

2:35 pmMAY 20 1989

12. Engrossed.

MAY 20 1989

13. Returned to Chief Clerk at

1:36 amMAY 20 1989

14. Sent to the Senate.

Betty Murray
Chief Clerk of the House

MAY 20 1989

15. Received from the House

MAY 22 1989

16. Read, referred to Committee on

CRIMINAL JUSTICEMAY 26 1989

17. Reported favorably

18. Reported adversely, with favorable Committee Substitute; Committee Substitute
read first time.

19. Ordered not printed.

MAY 27 1989

20. Regular order of business suspended by

U. O.
(a viva voce vote.)
_____ yeas, _____ nays.)

21. To permit consideration, reading and passage, Senate and Constitutional Rules
suspended by vote of _____ yeas, _____ nays.

MAY 27 1989

22. Read second time

passed to third reading by:

(a viva voce vote.)

_____ yeas, _____ nays.)

89 MAY 20 AM 1:36

HOUSE OF REPRESENTATIVES

15
20
1989
MAY 27 1989
101

23. Caption ordered amended to conform to body of bill.

MAY 27 1989 24. Senate and Constitutional 3-Day Rules suspended by vote of 28 yeas,
2 nays to place bill on third reading and final passage.

MAY 27 1989 25. Read third time and passed by
(a viva voce vote.)
(29 yeas, 1 nays.)

OTHER ACTION:

OTHER ACTION:

Betty King
Secretary of the Senate

MAY 27 1989 26. Returned to the House.

MAY 27 1989 27. Received from the Senate (with amendments.)
(as substituted.)

28. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record
(Substitute) Vote) (Record Vote of _____ yeas, _____ nays, _____ present,
not voting).

29. Conference Committee Ordered.

30. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 27 1989 31. Ordered Enrolled at 12:50 pm